

Rogers et al. v. U.S. Dept. of Health and Human Servs., et al.

Exhibit H

**to Governor Henry McMaster's and Michael Leach's Motion for Summary Judgment and
Memorandum in Support Thereof**

Excerpts from Deposition of Susan Roben

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

EDEN ROGERS

and

BRANDY WELCH,

Plaintiffs,

vs.

CASE NO. 6:19-CV-01567-JD

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN

SERVICES; ALEX AZAR, in his official capacity as

Secretary of the UNITED STATES DEPARTMENT OF HEALTH

AND HUMAN SERVICES; ADMINISTRATION FOR CHILDREN AND

FAMILIES; LYNN JOHNSON, in her official capacity as

Assistant Secretary of the ADMINISTRATION FOR

CHILDREN AND FAMILIES; STEVEN WAGNER, in his

official capacity as Principal Deputy Assistant

Secretary of the ADMINISTRATION FOR CHILDREN AND

FAMILIES; HENRY MCMASTER, in his official capacity

as Governor of the STATE OF SOUTH CAROLINA;

and MICHAEL LEACH, in his official capacity as

State Director of the SOUTH CAROLINA DEPARTMENT OF

SOCIAL SERVICES,

Defendants.

30(b)(6)

VIDEOTAPED VTC

DEPOSITION OF: SOUTH CAROLINA DEPARTMENT OF
SOCIAL SERVICES

BY: SUSAN ROBEN

(Appearing by VTC)

DATE: FEBRUARY 17, 2022

TIME: 9:00 a.m.

LOCATION: 1320 Main Street
Columbia, SC

TAKEN BY: Counsel for the Plaintiffs

REPORTED BY: Susan M. Valsecchi, RPR, CRR
Certified Realtime Reporter
(Appearing by VTC)

1 A. Okay. So we do pay an administrative
2 rate to the CPAs, and that is based on -- you know,
3 that is a per-day and per-child rate.

4 So if a CPA has a child that is -- that
5 is placed in a home, for each day that that child
6 is placed in one of the CPA homes, they get -- they
7 get an administrative rate.

8 And so based on the age of the child,
9 that rate is either \$20 a day, \$25 a day or \$30 a
10 day. And those rates just began on January 1st of
11 2021.

12 Q. Okay. So the administrative rate is
13 paid to the CPA, and it's a --

14 A. Correct.

15 Q. -- per-child per diem rate --

16 A. Correct.

17 Q. -- and that begins to be paid at the
18 time when the child -- a child is placed with a
19 family that is supported by that CPA.

20 A. Correct.

21 Q. Is that an accurate summary?

22 A. That's correct.

23 Q. Great. And you told -- you told us the
24 different -- the different rates and that they vary
25 by age. So for the \$20-per-day rate, what ages of

1 A. So, I believe that that happened -- um,
2 I know that was happening -- I believe that was
3 happening, um -- well, I know that was happening
4 when we -- when we increased the rate to the \$20,
5 \$25 and \$30 a day.

6 I can't recall, um, off the top of my
7 head, um, exactly the date that it -- that the
8 shift happened. I would -- I would have to go back
9 and look at our records to know exactly when that
10 shift happened.

11 Q. Okay. And we talked about this very
12 briefly at the very beginning of the deposition;
13 but do foster families receive some level of
14 reimbursement from DSS for the cost of having a
15 foster child?

16 A. Are you -- are you talking about the
17 maintenance payment?

18 Q. I am, yes, the maintenance payment, or,
19 we said earlier, sometimes it's referred to as a
20 board payment?

21 A. Yes, they do.

22 Q. Okay. Is that rate also a per-child,
23 per-day rate?

24 A. It is.

25 Q. And is that -- is it a rate that's

1 determined by the age of the child, or is it
2 standard across all ages of children?

3 A. It's determined.

4 Now, yeah, it's determined by the -- by
5 the age of the child.

6 Q. Okay. Do you know what the -- what the
7 rates are for the -- for the different age
8 brackets?

9 A. So if you're talking about -- now, we
10 have a lot of different rates. So if you're
11 talking about just regular foster care, because we
12 have many different -- we have therapeutic kids,
13 we've got special needs kids, we've got medically
14 fragile kids, and then we've got group home
15 payments, which are, you know, much higher
16 payments.

17 If you're talking about regular foster
18 homes with no special needs, no -- you know,
19 nothing else -- I have the -- I have those amounts,
20 but I'd have to -- we have a whole list of other
21 payments that I don't have memorized, so I'd have
22 to, you know, go back and get those. I do have the
23 regular foster rates, though.

24 Q. Yeah, no, thank you for that. Thank
25 you for that clarification. Yeah, what I'm

1 interested in is for just standard nontherapeutic
2 foster care, what -- what those board payment rates
3 are?

4 A. Sure, so those are -- so it's \$20.03
5 per day for ages zero to 5. And then it's \$23.41
6 per day for ages 6 to 12. And then it's \$24.72 per
7 day for ages 13 to 20. And these rates are also
8 specified in provisos, so that's out on our -- it's
9 out on the -- it's in the appropriations act and
10 it's -- you know, you can get that on the website,
11 on the appropriations act website, it's set
12 in -- set in the proviso each year. So that is
13 published.

14 Q. Okay. And is that -- is that money,
15 those -- the foster care board payment -- is that
16 paid directly to the foster family from DSS, or
17 does it work some other way?

18 A. Um, so the -- those payments are paid
19 to the CPA provider and then the CPA provider is
20 required to make the payments to the -- to the
21 family.

22 So we make the payment directly to the
23 CPA and then they turn around and pay -- and they
24 are required, by contract, to pay those amounts to
25 the -- to the foster family.

1 gathered and the research that I have done, that is
2 the conclusion that I have come to.

3 Q. So you don't know for sure?

4 A. I mean, I don't know where -- I
5 mean -- I'm -- well --

6 Effective January -- what I know is
7 that effective January '19 is when the regular CPA
8 providers began to receive the \$10 per day per
9 child. They did not receive it before then.

10 Q. But you don't know for sure, or you
11 can't tell me with certainty right now whether
12 there may have been some other -- or whether there
13 was some other funding mechanism whereby those
14 nontherapeutic CPAs were being paid for their
15 foster care services prior to that January 2019
16 initiation of the admin fee, right?

17 A. There wouldn't have been any other
18 funding mechanism.

19 Q. There would not have been, or there was
20 not?

21 A. There wouldn't -- there was not any
22 other funding mechanism. We were not paying them
23 any other -- any other way.

24 Q. So they were providing those foster
25 care services -- recruiting, screening,